



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97212; File No. 4-698]

Joint Industry Plan; Notice of Withdrawal of Proposed Amendment to the National Market System Plan Governing the Consolidated Audit Trail, as Modified by Partial Amendment Nos. 1 and 2

March 28, 2023.

On May 13, 2022, the Operating Committee for Consolidated Audit Trail, LLC (“CAT LLC”), on behalf of the Participants¹ to the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”),² filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 11A of the Securities Exchange Act of 1934 (“Exchange Act”),³ and Rule 608 of Regulation NMS thereunder,⁴ a proposed amendment to the CAT NMS Plan (“Proposed Amendment”) to implement a revised funding model (“Executed

¹ The Participants are: BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange, LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the “Participants”).

² The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (“Company”). On August 29, 2019, the Participants replaced the CAT NMS Plan in its entirety with the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC, which became the Company. The latest version of the CAT NMS Plan is available at <https://catnmsplan.com/about-cat/cat-nms-plan>.

³ 15 U.S.C 78k-1.

⁴ 17 CFR 242.608.

Share Model”) for the consolidated audit trail (“CAT”) and to establish a fee schedule for Participant CAT fees in accordance with the Executed Share Model. The Proposed Amendment was published for comment in the Federal Register on June 1, 2022.⁵

On August 30, 2022, the Commission instituted proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS,⁶ to determine whether to disapprove the Proposed Amendment or to approve the Proposed Amendment with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment.⁷ On November 15, 2022, CAT LLC submitted a letter to propose a partial amendment of the Proposed Amendment (“Partial Amendment No. 1”) and to respond to the Commission’s solicitation of comments in the OIP and comments received on the OIP.⁸ On November 23, 2022, pursuant to Rule 608(b)(2)(i) of Regulation NMS,⁹ the Commission extended the period within which to conclude proceedings regarding the Proposed Amendment to 240 days from the date of publication of the Notice.¹⁰ Notice of the filing of Partial Amendment No. 1 was published for comment in the Federal Register on December 2, 2022.¹¹

On January 20, 2023, the Commission extended the period within which to conclude proceedings regarding the Proposed Amendment to 300 days from the date of publication of the

⁵ See Securities Exchange Act Release No. 94984 (May 25, 2022), 87 FR 33226 (June 1, 2022) (“Notice”).

⁶ 17 CFR 242.608(b)(2)(i).

⁷ See Securities Exchange Act Release No. 95634 (Aug. 30, 2022), 87 FR 54558 (Sept. 6, 2022) (“OIP”). Comments received in response to the OIP and the Notice can be found on the Commission’s website at <https://www.sec.gov/comments/4-698/4-698-a.htm>.

⁸ See Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Nov. 15, 2022).

⁹ See 17 CFR 242.608(b)(2)(i).

¹⁰ See Securities Exchange Act Release No. 96382 (Nov. 23, 2022), 87 FR 73366 (Nov. 29, 2022).

¹¹ See Securities Exchange Act Release No. 96394 (Nov. 28, 2022), 87 FR 74183 (Dec. 2, 2022). Comments received in response to Partial Amendment No. 1 can be found on the Commission’s website at <https://www.sec.gov/comments/4-698/4-698-a.htm>.

Notice.¹² On February 15, 2023, CAT LLC submitted a letter to propose an additional partial amendment to the Proposed Amendment (“Partial Amendment No. 2”) and to respond to issues discussed in the comments on Partial Amendment No. 1.¹³ The Commission is publishing this notice to reflect that on March 1, 2023, prior to the end of the 300-day period provided for in Exchange Act Rule 608(b)(2)(ii),¹⁴ the Participants withdrew the Proposed Amendment, as modified by Partial Amendment Nos. 1 and 2.¹⁵

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

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¹² See Securities Exchange Act Release No. 96725 (Jan. 20, 2023), 88 FR 5059 (Jan. 26, 2023).

¹³ See Letter from Michael Simon, Chair Emeritus, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Feb. 15, 2023), available at <https://www.sec.gov/comments/4-698/4-698-a.htm>. Because CAT LLC withdrew the Proposed Amendment, as modified by Partial Amendment Nos. 1 and 2, before the Commission’s 15-day deadline in Rule 608(b)(1)(ii) of Regulation NMS to send notice of the filing of a proposed amendment to any national market system plan to the Federal Register, the Commission did not publish notice of the filing of Partial Amendment No. 2. See 17 CFR 242.608(b)(1)(ii).

¹⁴ 17 CFR 242.608(b)(2)(ii).

¹⁵ See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Mar. 1, 2023).